

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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CAPSTONE OIL & GAS COMPANY, L.P.,  
a Texas limited partnership and  
PARALLEL PETROLEUM CORPORATION,  
a Delaware corporation,

Plaintiff,

vs.

No. CIV-07-226 WJ/WDS

MILLER STRATVERT, P.A., a New Mexico  
Professional Association, and  
J. SCOTT HALL, individually,

Defendants.

**ORDER DENYING MOTION FOR SUMMARY JUDGMENT (Doc. 82)**

THIS MATTER comes before the Court upon Defendant's Motion for Summary Judgment Against Parallel Petroleum Corporation, filed November 20, 2007 (**Doc. 82**). Based on the controlling New Mexico case on the issue, Leyba v. Whitley, 120 N.M. 768, 775-78 (1995), the Court, having heard oral argument on the matter, and having reviewed the parties' briefs, finds that there are disputed issues of fact regarding whether Parallel was an intended third-party beneficiary of the legal representation performed by Defendant Hall and the Miller Law Firm.

The motion will therefore be DENIED, for reasons stated on the record. However, assuming this case goes to trial, Defendants may renew the motion as a motion for judgment as a matter of law on the issue of whether Parallel Petroleum Corporation was an intended beneficiary under the agreement for legal services between Capstone Oil and Gas Company and Scott Hall and the Miller Law Firm.

  
UNITED STATES DISTRICT JUDGE